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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/825,576	03/31/1997	THOMAS D PETITE	81607-1010	1135

7590

08/28/2002

DANIEL R MCCLURE
THOMAS KAYDEN HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY N W #1500
ATLANTA, GA 303395948

EXAMINER

EVANS, FANNIE L

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 08/825,576	Applicant(s) PETITE, THOMAS D	
	Examiner F. L. Evans	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 12, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR § 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR § 1.114 and the fee set forth in 37 CFR § 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR § 1.114 and prosecution in this application has been reopened pursuant to 37 CFR § 1.114. Applicant's submission (preliminary amendment) filed on April 12, 2002 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-28, 30 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Petite et al (US 5,714,931), newly cited.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of

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invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Petite et al disclose an automatic teller banking system comprising (1) a remote access unit with a plurality of user depressible buttons, a memory configured to store user identification data (including track 1 and track 2 data), a wireless transmitter, a controller to control the wireless transmitter and a data formatting logic; (2) an automatic teller banking machine with a receiver to receive the wireless transmission from the remote access unit in addition to all of the components of a conventional automatic teller banking machine; and (3) a network coupled to the automated teller banking machine for communicating user related information to a remotely located database. The remote access unit allows a user to transmit stored user identification data without any verification of the user identification data. The plurality of buttons are provided on the remote access unit and are associated with different functions. Applicant's attention is directed to Petite et al in its entirety with particular attention directed to lines 24-43 and 54-63 of column 3, lines 22-25 and 39-67 in column 4 and lines 30-32 and 44-53 of column 5. Since the

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plural buttons on the remote access unit are associated with different functions it would have been obvious to one with ordinary skill in the art to transmit a function code along with the user identification data transmitted upon the depression of a selected button. Such transmissions were conventional in the art.

Claim 29 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tait et al (US 5,550,358) in view of Waraksa et al (US 5,319,364), both of record .

Tait et al disclose (1) a remote access device for accessing a financial transaction machine comprising a single user-depressible button, a memory for storing user identification data (including track 1 and track 2 data), a transmitter and a controller; (2) a an automatic financial transaction machine with a magnetic card reader, and receiving means for receiving data transmitted from the remote access device via electromagnetic waves, and data formatting means responsive to outputs from the receiving means and the card reader; and (3) a network for communicating user identification data and account information. Applicant's attention is directed to the embodiment of the invention in Fig. 5 and the text pertaining thereto in column 6. The embodiment of Fig. 5 does not require prior verification of user identification data. The user identification data is transmitted in response to the depression of the single user-depressible button. Tait et al fails to specifically disclose the transmission of a function code along with the user identification data in response to the depression of the user button.

Waraksa et al disclose a remote access unit in which a transmitter transmits a function code along with an identification code. Applicant's attention is directed to the text under the heading "ERROR CORRECTION CODE" in columns 5-7 of Waraksa et al.

At the time the invention was made, it would have been obvious to one with ordinary

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skill in that art to include the transmission of a function code along with the identification data transmitted by the remote access unit of Tait et al because the transmission of such data/code was conventional in the art of remote access devices as evidenced by the disclosure of Waraksa et al.

Fax/Telephone Numbers

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax number is (703) 308-7722.


If applicant wishes to send a fax containing a Proposed Amendment for discussion during either a personal interview or a telephone interview then the fax should:

- 1) Contain either the statement "**DRAFT**" or "**PROPOSED AMENDMENT**" on the Fax Cover Sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that the amendment will not be entered into the application and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (703) 308-4805. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font, can be reached on (703) 308-4881. The TC Receptionist's telephone number is (703) 308-0956.

Any other inquiry of a technical nature, and all inquiries of a general nature including those relating to the status of an application should be directed to TC 2800 Customer Service Office whose telephone number is (703) 306-3329.


F. L. EVANS
PRIMARY EXAMINER
ART UNIT 2877

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August 22, 2002